

House File 36 - Introduced

HOUSE FILE 36

BY MURPHY

A BILL FOR

1 An Act relating to the payment of reasonable attorney fees
2 relating to an appeal of a termination of parental rights
3 order.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 600A.6B, Code 2011, is amended to read
2 as follows:

3 **600A.6B Payment of attorney fees.**

4 1. A person filing a petition for termination of parental
5 rights under this chapter or the person on whose behalf the
6 petition is filed shall be responsible for the payment of
7 reasonable attorney fees for counsel appointed pursuant to
8 section 600A.6A unless the one of the following conditions
9 exists:

10 a. The person filing the petition is a private child-placing
11 agency as defined in section 238.1 or unless the.

12 b. The court determines that the person filing the petition
13 or the person on whose behalf the petition is filed is
14 indigent.

15 c. The person filing the petition or the person on whose
16 behalf the petition is filed is exempt pursuant to subsection
17 3.

18 2. If the person filing the petition is a private
19 child-placing agency as defined in section 238.1 or if the
20 person filing the petition or the person on whose behalf the
21 petition is filed is indigent, the appointed attorney shall be
22 paid reasonable attorney fees as determined by the state public
23 defender.

24 3. If counsel is appointed pursuant to section 600A.6A for
25 hearings or proceedings connected with a request for vacation
26 or appeal of a termination order issued under section 600A.9,
27 subsection 1, paragraph "b", the person who filed the petition
28 for termination of parental rights or the person on whose
29 behalf the petition was filed shall not be responsible for the
30 payment of reasonable attorney fees for such counsel. Instead,
31 the counsel appointed pursuant to section 600A.6A shall be paid
32 reasonable attorney fees as determined by the state public
33 defender and in accordance with subsection 4.

34 ~~3.~~ 4. The state public defender shall review all the claims
35 submitted under this section and shall have the same authority

1 with regard to the payment of these claims as the state public
2 defender has with regard to claims submitted under chapters 13B
3 and 815, including the authority to adopt rules concerning the
4 review and payment of claims submitted.

5

EXPLANATION

6 Under current law, in a termination of parental rights
7 proceeding, the person against whom the petition is filed has
8 the right to counsel in connection with all subsequent hearings
9 and proceedings. If that parent desires but is financially
10 unable to employ counsel, the court will appoint counsel if the
11 person requests appointment of counsel, the person is indigent,
12 and the court determines the person will have difficulty
13 presenting the person's version of the facts in dispute and
14 has a colorable defense to the termination of parental rights.
15 Under current law, unless the person filing the petition for
16 termination of parental rights or the person on whose behalf
17 the petition is filed is a child-placing agency or is indigent,
18 such person is responsible for payment of reasonable attorney
19 fees for appointed counsel.

20 This bill specifies an exception to payment of fees for
21 appointed counsel by the person filing or on whose behalf the
22 petition is filed. Under the bill, if an order is issued
23 granting the termination of parental rights petition, and
24 an appeal or vacation of the order is requested, the person
25 who filed the petition for termination of parental rights
26 or the person on whose behalf the petition was filed is not
27 responsible for the payment of reasonable attorney fees for
28 appointed counsel. Instead, appointed counsel is to be paid
29 reasonable attorney fees as determined by the state public
30 defender and in accordance with the process for payment of such
31 claims.